



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**  
**NEW ENGLAND OFFICE**  
5 Post Office Square  
Boston, MA 02109

**JUL - 3 2014**

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Docket No. 14-308-26

David Albrecht  
Borrego Solar Systems, Inc.  
1115 Westford Street  
Lowell, MA 01851

**Re: Request for Information Pursuant to Section 308 of the Clean Water Act  
(33 U.S.C. § 1318)**

Dear Mr. Albrecht:

Enclosed is a Request for Information ("Request") related to construction sites operated by Borrego Solar Systems, Inc. ("Borrego") in Massachusetts and other states in New England.

Section 308(a) of the Clean Water Act ("the Act"), 33 U.S.C. § 1318(a) authorizes the United States Environmental Protection Agency ("EPA") to require any owner or operator of any point source to provide information needed to determine whether there has been a violation of the Act. Accordingly, you are hereby required, pursuant to 33 U.S.C. § 1318(a) to respond to the enclosed Information Request (**Enclosure 1**) **within thirty (30) calendar days of receipt of this letter.**

Please read the instructions and definitions in the enclosure carefully before preparing your response. Answer each question as clearly and completely as possible. Your response to this request must be accompanied by a certificate that is signed and dated by the person who is authorized by Borrego to respond to the request. The certification must state that the response is complete and contains all information and documentation available to you that is responsive to the request. A **Statement of Certification** is enclosed with this letter (**Enclosure 2**).

Information submitted pursuant to this letter shall be sent by certified mail and shall be addressed as follows:

Andrew Spejewski  
U.S. Environmental Protection Agency  
Water Technical Unit (OES04-1)  
5 Post Office Square, Suite 100  
Boston, MA 02109-3912

Although the information requested must be submitted to the EPA, you are entitled to assert a business confidentiality claim pursuant to the regulations set forth in 40 C.F.R. Part 2, Subpart B. If the EPA determines the information you have designated meets the criteria in 40 C.F.R. § 2.208, the information will be disclosed only to the extent and by means of the procedures specified in Subpart B. Unless a confidentiality claim is asserted at the time the requested information is submitted, the EPA may make the information available to the public without further notice to you.

The Small Business Regulatory Enforcement and Fairness Act ("SBREFA") provides small businesses with the opportunity to submit comments on regulatory enforcement at the time of an EPA enforcement activity. The enclosed Information Sheet (**Enclosure 3**) provides information on this right, as well as information on compliance assistance that may be available to you. The Small Business Ombudsman may be reached at 1-800-368-5888. Please be aware that this does not relieve you of your responsibility to comply with federal law, your NPDES Permit, and this information request.

You may wish to visit the EPA's national or Region One storm water websites to obtain more information on general Federal and State storm water requirements at:

[http://cfpub.epa.gov/npdes/home.cfm?program\\_id=6](http://cfpub.epa.gov/npdes/home.cfm?program_id=6)  
<http://www.epa.gov/region01/topics/water/stormwater.html>

Compliance with the provisions of this letter is mandatory. Failure to respond fully and truthfully or to respond within the time frame specified above constitutes a violation of the Clean Water Act subject to enforcement action, including the assessment of penalties. In addition, providing false, fictitious, or fraudulent statements or representations may subject you to criminal prosecution under 18 U.S.C. § 1001. Please be aware that the issuance of this letter and providing the requested information does not relieve you of any responsibility under the Act.

If you have any technical questions relating to this information request, please contact Andrew Spejewski of my staff at (617) 918-1014. If you have any legal questions, or if your attorney wishes to communicate with the EPA on your behalf, please contact Jeffrey Kopf, Senior Enforcement Counsel at (617) 918-1796.

Sincerely,



James Chow, Manager  
Technical Enforcement Office  
Office of Environmental Stewardship

Enclosures

- (1) Information Request
  - (2) Statement of Certification
- Information Sheet (U.S. EPA Small Business Resources)

## **Enclosure 1**

### **Information Request**

#### **A. Instructions**

1. All documents relied upon or used by you to answer any of the questions in the request must be copied and submitted to the EPA with your response. All documents must contain a notation indicating the question and subpart of the question to which they are responsive.
2. If any question cannot be answered in full, answer to the extent possible. If your responses are qualified in any manner, please explain.
3. If information or documents not known or not available to you as of the date of submission of your response to this request should later become known or available to you, you must supplement your response to the EPA. Moreover, should you find, at any time after the submission of your response, that any portion of the submitted information is false or misrepresents the truth, you must notify the EPA of this fact as soon as possible and provide a corrected response.
4. Please provide a separate narrative response to each and every question and subpart of a question set forth in this Information Request. Precede each answer with the text and the number of the question and the subpart to which the answer corresponds.

**B. Respond to the Following Questions**

1. Provide a list of all construction sites in Connecticut, Rhode Island, Massachusetts, Vermont, New Hampshire, or Maine owned or operated by Borrego Solar Systems, Inc. between November 1, 2012 and the present. For each site provide: owner, operator, location, start and end dates of construction, size of site in acres, size of area disturbed during construction in acres, and whether the site was active between December 1 and March 1 in either winter.
2. Provide a copy of all Notices of Violation, Orders, or other enforcement actions, related to wetlands impacts or erosion controls at the above listed sites.
3. Describe training provided by Borrego to construction superintendents regarding sediment and erosion control.
4. For the Midstate Solar 1, Midstate Solar 2, and Midstate Solar 3 projects in Warren, MA (collectively, the "Midstate Projects"), provide a copy of the Stormwater Pollution Prevention Plan ("SWPPP") for each site. Provide copies of reports from inspections of erosion controls at the sites between December 1, 2012 and March 1, 2013.
5. For the Midstate Projects, list all discharges resulting in sediment reaching a wetland or water of the U.S. For each discharge include date(s), location and path to water, approximate amount of sediment discharged, and cause of discharge.
6. Explain why the detention basin in the Northwest corner of Midstate Solar 2 was not built before clearing and construction of the rest of the site.
7. Explain why detention basins at Midstate Solar 3 were constructed without clay cores, liners, or other techniques to prevent break-through erosion of the walls.
8. Provide all wetlands restoration plans related to the Midstate Projects. If any restoration has been completed, provide completion reports.
9. For the West Street Solar project in Gardner, MA, provide a copy of the SWPPP and reports of all inspections of erosion controls at the site.
10. For the West Street Solar project in Gardner, MA, describe activities carried out at the site between December 1, 2013 and March 1, 2014.
11. For the West Street Solar project in Gardner, MA, list all discharges resulting in sediment reaching a wetland or water of the U.S. For each discharge include

date(s), location and path to water, approximate amount of sediment discharged, and cause of discharge.

## Enclosure 2

Instructions: Complete and include with your response

### STATEMENT OF CERTIFICATION

I declare under penalty of perjury that I am authorized to respond on behalf of Borrego Solar Systems, Inc. I certify that the foregoing responses and information submitted were prepared by me, or under my direction or supervision and that I have personal knowledge of all matters set forth in the responses and the accompanying information. I certify that the responses are true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment.

By \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Printed Name)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Date)





## U.S. EPA Small Business Resources Information Sheet

The United States Environmental Protection Agency provides an array of resources, including workshops, training sessions, hotlines, websites and guides, to help small businesses understand and comply with federal and state environmental laws. In addition to helping small businesses understand their environmental obligations and improve compliance, these resources will also help such businesses find cost-effective ways to comply through pollution prevention techniques and innovative technologies.

### EPA's Small Business Websites

Small Business Environmental Homepage - [www.smallbiz-enviroweb.org](http://www.smallbiz-enviroweb.org)

Small Business Gateway - [www.epa.gov/smallbusiness](http://www.epa.gov/smallbusiness)

EPA's Small Business Ombudsman - [www.epa.gov/sbo](http://www.epa.gov/sbo) or 1-800-368-5888

#### EPA's Compliance Assistance Homepage

[www.epa.gov/compliance/assistance/  
business.html](http://www.epa.gov/compliance/assistance/business.html)

This page is a gateway to industry and statute-specific environmental resources, from extensive web-based information to hotlines and compliance assistance specialists.

#### EPA's Compliance Assistance Centers

[www.assistancecenters.net](http://www.assistancecenters.net)

EPA's Compliance Assistance Centers provide information targeted to industries with many small businesses. They were developed in partnership with industry, universities and other federal and state agencies.

#### Agriculture

[www.epa.gov/agriculture/](http://www.epa.gov/agriculture/)

#### Automotive Recycling

[www.ecarcenter.org](http://www.ecarcenter.org)

#### Automotive Service and Repair

[www.ccar-greenlink.org](http://www.ccar-greenlink.org) or 1-888-GRN-LINK

#### Chemical Manufacturing

[www.chemalliance.org](http://www.chemalliance.org)

#### Construction

[www.cicacenter.org](http://www.cicacenter.org) or 1-734-995-4911

#### Education

[www.campuserc.org](http://www.campuserc.org)

#### Food Processing

[www.fpeac.org](http://www.fpeac.org)

#### Healthcare

[www.hercenter.org](http://www.hercenter.org)

#### Local Government

[www.lgean.org](http://www.lgean.org)

#### Metal Finishing

[www.nmfrc.org](http://www.nmfrc.org)

#### Paints and Coatings

[www.paintcenter.org](http://www.paintcenter.org)

#### Printed Wiring Board Manufacturing

[www.pwbrc.org](http://www.pwbrc.org)

#### Printing

[www.pneac.org](http://www.pneac.org)

#### Ports

[www.portcompliance.org](http://www.portcompliance.org)

#### U.S. Border Compliance and Import/Export Issues

[www.bordercenter.org](http://www.bordercenter.org)

#### Hotlines, Helplines and Clearinghouses

[www.epa.gov/epahome/hotline.htm](http://www.epa.gov/epahome/hotline.htm)

EPA sponsors many free hotlines and clearinghouses that provide convenient assistance regarding environmental requirements. Some examples are:

#### Antimicrobial Information Hotline

[info-antimicrobial@epa.gov](mailto:info-antimicrobial@epa.gov) or  
1-703-308-6411

#### Clean Air Technology Center (CATC) Info-line

[www.epa.gov/ttn/catc](http://www.epa.gov/ttn/catc) or 1-919-541-0800

#### Emergency Planning and Community Right-To-Know Act

[www.epa.gov/superfund/resources/  
infocenter/epcra.htm](http://www.epa.gov/superfund/resources/infocenter/epcra.htm) or 1-800-424-9346

#### EPA Imported Vehicles and Engines Public Helpline

[www.epa.gov/otaq/imports](http://www.epa.gov/otaq/imports) or  
734-214-4100

#### National Pesticide Information Center

[www.npic.orst.edu/](http://www.npic.orst.edu/) or 1-800-858-7378

#### National Response Center Hotline - to report oil and hazardous substance spills

[www.nrc.uscg.mil](http://www.nrc.uscg.mil) or 1-800-424-8802

#### Pollution Prevention Information Clearinghouse (PPIC)

[www.epa.gov/opptintr/ppic](http://www.epa.gov/opptintr/ppic) or  
1-202-566-0799

#### Safe Drinking Water Hotline

[www.epa.gov/safewater/hotline/index.  
html](http://www.epa.gov/safewater/hotline/index.html) or 1-800-426-4791

#### Stratospheric Ozone Protection Hotline

[www.epa.gov/ozone](http://www.epa.gov/ozone) or 1-800-296-1996

## **Toxic Substances Control Act (TSCA) Hotline**

[tsca-hotline@epa.gov](mailto:tsca-hotline@epa.gov) or 1-202-554-1404

## **Wetlands Information Helpline**

[www.epa.gov/owow/wetlands/wetline.html](http://www.epa.gov/owow/wetlands/wetline.html) or 1-800-832-7828

## **State and Tribal Web-Based Resources**

### **State Resource Locators**

[www.envcap.org/statetools](http://www.envcap.org/statetools)

The Locators provide state-specific contacts, regulations and resources covering the major environmental laws.

### **State Small Business Environmental Assistance Programs (SBEAPs)**

[www.smallbiz-enviroweb.org](http://www.smallbiz-enviroweb.org)

State SBEAPs help small businesses and assistance providers understand environmental requirements and sustainable business practices through workshops, trainings and site visits. The website is a central point for sharing resources between EPA and states.

### **EPA's Tribal Compliance Assistance Center**

[www.epa.gov/tribalcompliance/index.html](http://www.epa.gov/tribalcompliance/index.html)

The Center provides material to Tribes on environmental stewardship and regulations that might apply to tribal government operations.

### **EPA's Tribal Portal**

[www.epa.gov/tribalportal/](http://www.epa.gov/tribalportal/)

The Portal helps users locate tribal-related information within EPA and other federal agencies.

### **EPA Compliance Incentives**

EPA provides incentives for environmental compliance. By participating in compliance assistance programs or voluntarily disclosing and promptly correcting violations before an enforcement action has been initiated, businesses may be eligible for penalty waivers or reductions. EPA has two such policies that may apply to small businesses:

#### **EPA's Small Business Compliance Policy**

[www.epa.gov/compliance/incentives/smallbusiness/index.html](http://www.epa.gov/compliance/incentives/smallbusiness/index.html)

This Policy offers small businesses special incentives to come into compliance voluntarily.

#### **EPA's Audit Policy**

[www.epa.gov/compliance/incentives/auditing/auditpolicy.html](http://www.epa.gov/compliance/incentives/auditing/auditpolicy.html)

The Policy provides incentives to all businesses that voluntarily discover, promptly disclose and expeditiously correct their noncompliance.

### **Commenting on Federal Enforcement Actions and Compliance Activities**

The Small Business Regulatory Enforcement Fairness Act (SBREFA) established a SBREFA Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. If you believe that you fall within the Small Business Administration's definition of a small business (based on your North American Industry Classification System designation, number of employees or annual receipts, as defined at 13 C.F.R. 121.201; in most cases, this means a business with 500 or fewer employees), and wish to comment on federal enforcement and compliance activities, call the SBREFA Ombudsman's toll-free number at 1-888-REG-FAIR (1-888-734-3247), or go to their website at [www.sba.gov/ombudsman](http://www.sba.gov/ombudsman).

Every small business that is the subject of an enforcement or compliance action is entitled to comment on the Agency's actions without fear of retaliation. EPA employees are prohibited from using enforcement or any other means of retaliation against any member of the regulated community in response to comments made under SBREFA.

### **Your Duty to Comply**

If you receive compliance assistance or submit a comment to the SBREFA Ombudsman or Regional Fairness Boards, you still have the duty to comply with the law, including providing timely responses to EPA information requests, administrative or civil complaints, other enforcement actions or communications. The assistance information and comment processes do not give you any new rights or defenses in any enforcement action. These processes also do not affect EPA's obligation to protect public health or the environment under any of the environmental statutes it enforces, including the right to take emergency remedial or emergency response actions when appropriate. Those decisions will be based on the facts in each situation. The SBREFA Ombudsman and Fairness Boards do not participate in resolving EPA's enforcement actions. Also, remember that to preserve your rights, you need to comply with all rules governing the enforcement process.

*EPA is disseminating this information to you without making a determination that your business or organization is a small business as defined by Section 222 of the Small Business Regulatory Enforcement Fairness Act or related provisions.*